

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have canceled claims 1-44 and have added claims 45-90. Accordingly, claims 45-90 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Examiner Objections - Specification

The Examiner objected to the abstract of the disclosure because it was not submitted on separate sheet in accordance with 37 CFR 1.52(b)(4). The Applicants have attached the abstract hereto on a separate sheet, although this application was a national stage application filed under 35 USC 371 which is not subject to the requirements of 37 CFR 1.52(b)(4).

3.) Examiner Objections - Claims

The Examiner objected to claims 8, 14, 18, 20, 22-24, 27-29 and 37 as being in improper form because of multiple dependent claims 4 and 5. The Applicants have canceled claims 8, 14, 18, 20, 22-24, 27-29 and 37. New claims 60, 64, 68-70, and 73-76 generally corresponding to canceled claims 8, 14, 18, 20, 22-24, 27-29 and 37 are in proper form.

4.) Claim Rejections – 35 U.S.C. § 101

The Examiner rejected claims 8-29 under 35 U.S.C. § 101 as being dependent on claims 1 or 8. The Applicants have canceled claims 8-29. New claims 54-76 generally corresponding to canceled claims 8-29 are in proper form.

5.) Claim Rejections – 35 U.S.C. § 112

The Examiner rejected claims 8-29 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicants have canceled claims 8-29. New claims 54-

76 generally corresponding to canceled claims 8-29 have been drafted to particularly point out and claim the invention.

6.) Claim Rejections – 35 U.S.C. § 102(e)

The Examiner rejected claims 1-5, 20-34 and 38-44 under 35 U.S.C. § 102(e) as being anticipated by Kinrot (US 6,574,193). Applicants have canceled claims 1-5, 30-34 and 38-44. New claims 45-50, 77-84 and 87-90 generally corresponding to canceled claims 1-5, 20-34 and 38-42 are distinguishable over Kinrot.

Kinrot discloses a variable-rate encoding apparatus operative to receive data and process the data for transmission through a network, comprising a processor, which determines a degree of circuit congestion responsive to the status of a cell queue associated with at least one virtual circuit of the network; a variable-rate encoder, operative to encode the received data so as to provide encoded data packets to the at least one virtual circuit at rate that is selected responsive to said degree of circuit congestion; and a bit rate selector, wherein the apparatus is suitable for an asynchronous transfer mode (ATM) network; *and wherein the processor determines a mean bit rate of the encoded data packets to be output by the encoder as a function of the circuit congestion, and wherein the bit rate selects one of a plurality of discrete, applicable bit rates of the encoder responsive to the mean bit rate. (emphasis added).* Specifically, the transmission rate in Kinrot may be more or less than the lowest one of the plurality of maximum information transmission rates as claimed by Applicants.

In column 4, lines 11-34, Kinrot further provides:

Further preferably, the processor determines a mean bit rate of the encoded data packets to be output by the encoder as a function of the circuit congestion, and including a bit rate selector, which selects one of a plurality of discrete, applicable bit rates of the encoder responsive to the mean bit rate. Most preferably, each of the applicable bit rates is respectively associated with an output data packet length determined by an encoding standard according to which the encoder encodes the data. Further preferably, the mean bit rate determined for a minimum value of the circuit congestion is less than a maximum of the applicable bit rates. In a preferred embodiment, for a given mean bit rate, the bit rate selector alternately selects at least two different ones of the applicable bit rates, wherein the selection among the at least two different applicable bit rates is randomized.

Preferably, the rate at which the encoder encodes the data is selected responsive to an optimal average number of output bits per data sample, which is determined independently of the circuit congestion. Most preferably, the processor determines a desired bit rate of the encoded data packets to be output by the encoder by comparing a mean bit rate determined as a function of the circuit congestion and an optimal bit rate determined as a function of the optimal average number of output bits per data sample.

The present invention does not determine a maximum transmission rate based on an average, or on statistical measures. Kinrot does not identically disclose every element of the present invention. Therefore, the allowance of claims 45-50, 77-84 and 87-90 is respectfully requested.

7.) Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of ITU-T Recommendation I.366.1 (Segmentation and Reassembly Service Specific Convergence Sublayer for the AAL Type 2) (ITU-T). The Applicants have canceled claim 6. New claim 51, generally corresponds to canceled claim 6. New claim 51 depends indirectly on claim 45. As noted above, Kinrot does not anticipate the present invention as it does not disclose a processor or method that necessarily selects a lowest one of a plurality of maximum information transmission rates. Although ITU-T discloses the service specific convergence sublayer of an AAL2 adaptation layer in an ATM network, it does not disclose a processor or method that selects a lowest one of a plurality of maximum information transmission rates. Thus, the combination of Kinrot and ITU-T do not in combination disclose or suggest the present invention. Therefore, the allowance of claim 51 is respectfully requested.

The Examiner rejected claims 7-29 and 35-37 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Brueckheimer, et al. (US 6,574,224), further in view of ITU-T. The Applicants have canceled claims 7-29 and 35-37. New claims 52-76 and 85-86 generally correspond to canceled claims 7-29 and 35-37. As noted above, Kinrot does not anticipate the present invention as it does not disclose a processor or method that necessarily selects a lowest one of a plurality of maximum information transmission

rates. Brueckheimer only discloses an arrangement for interfacing devices between TDM and ATM networks. Although ITU-T discloses a service specific convergence sublayer of an AAL2 adaptation layer in the core network, it does not do so in combination with a processor or method selects a lowest one of a plurality of maximum information transmission rates. The combination of Kinrot, Brueckheimer and ITU-T do not disclose, suggest the present invention, nor is there a motivation in any of said references for such combination. The mere fact that one skilled in the art could pick and choose different elements from the references and combine them to arrive at the present invention is insufficient to find obviousness. There must be a compelling motivation based on logical principles to combine the different elements. Applicants respectfully submit that such motivation is not present. Therefore, the allowance of claims 52-76 and 85-86 is respectfully requested.

The Examiner rejected claims 12-29 and 35-37 under 35 U.S.C. §103(a) as being unpatentable over Kinrot, and ITU-T. Applicants have canceled claims 12-29 and 35-37. New claims 58-76 and 85-86 generally correspond to canceled claims 12-29 and 35-37. For the reasons set forth above, Applicants respectfully submit that the combination of Kinrot and ITU-T do not disclose or suggest the present invention as set forth in claims 58-76 and 85-86, nor is there a motivation in any of the references for such combination. Therefore, the allowance of claims 58-76 and 85-86 is respectfully requested.

8.) Prior Art Not Relied Upon

In the Conclusion paragraph of the Office Action, the Examiner stated that the prior art made of record set forth therein and not relied upon is considered pertinent to the Applicants' disclosure. None of the cited references disclose a processor adapted to: determine a plurality of maximum information transmission rates along a path of communication established between a plurality of access nodes; select a lowest one of the plurality of maximum information transmission rates; and authorize or establish a communication rate no greater than the selected lowest rate, nor a method of controlling a communication rate for transmission of information in a telecommunication system comprising determining a plurality of maximum information transmission rates along a

path of communication established between a plurality of access nodes; selecting a lowest one of the plurality of maximum information transmission rates; and authorizing or establishing a communication rate no greater than the selected lowest rate.

CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 45-90.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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